

# **COMMITTEE ON THE IMPACT OF DOMESTIC VIOLENCE AND THE COURTS**

## **Meeting Minutes**

May 12, 2004, 10:00 AM – 2:00 PM

State Courts Building, Conference Room 119 A&B

CIDVC Website: <http://www.supreme.state.az.us/cidvc/>

### **CIDVC Members Present**

Hon. William O'Neil, Chair  
Hon. George T. Anagnost (Telephonic)  
Allie Bones  
Evelyn Buckner  
Mark Carpenter  
Larry Farnsworth  
Hon. Elizabeth R. Finn  
Martha Fraser Harmon  
Hon. Danna Hendrix  
Donna Irwin  
Bob James  
Hon. Ronald I. Karp  
Patricia Klahr  
Mary Ann Lanzilotta, Ph.D  
Sheri Lauritano, Esq.  
Hon. Michelle Lue Sang  
Hon. Denise I. Lundin  
Hon. Mary Helen Maley  
Richard McLane  
Hon. Mark Moran  
John Pombier, Esq.  
Tracey Wilkinson

### **Members using a Proxy**

Julianna Koob (Bill Hart, Proxy)  
Anu Partap, M.D. (Bertha Martinez, Proxy)

### **Members Not Present**

Jerry Bernstein, Esq.  
Hallie Bongar White, Esq.  
Hon. Sherry Geisler

### **Staff Present**

Konnie K. Young  
Karen Kretschman  
Patricia Wuensche  
Elizabeth Portillo

### **Guests**

David Benton, Legislative Officer

### **Quorum: Yes**

## **1. Call Meeting to Order**

Judge O'Neil called the meeting to order at 10:12 AM. All those present introduced themselves. Guests attending the meeting were welcomed.

## **2. New Materials**

The following new materials were distributed to the members:

- a) *Revised Membership List & Update on Membership*
- b) *Workgroup Membership Lists*
- c) *Meeting Schedule for 2004*
- d) *Draft Minutes (February 11, 2004)*

### Revised/Update of CIDVC and Workgroup Membership Lists

Judge O'Neil asked that the members review and make any necessary corrections to the revised CIDVC membership list and stressed that it is important to keep e-mail addresses and member information confidential. Also attached were the committee workgroups (Criminal Benchbook, Forms, Education, and DV Benchbook) membership lists, and Judge O'Neil also wanted the workgroup members to review and make any necessary corrections to those lists. Judge O'Neil said that if a member is interested in becoming a part of a workgroup, to let him, Konnie Young, or Elizabeth Portillo know so that the member could be appointed to that requested workgroup membership list.

### Meeting Schedule for 2004

Judge O'Neil reviewed the handout that reflected the dates for future CIDVC meetings and said that these meetings would not be changing. He stressed the importance of utilizing the proxy procedures should a member not be able to attend in person or telephonically.

### Review & Approval of February Minutes

The minutes of the February 11, 2004 meeting were reviewed and approved with no further discussion, corrections, deletions, or additions. A motion was not needed to approve these minutes.

## **3. DV Conference Report**

Judge O'Neil stated that the Governor funded a couple of the judges to attend the conference in Chicago on Domestic Violence. He said that the conference was excellent and intensive. Judge O'Neil said that one of the topics they discussed was Practical Applications where they presented factual situations, and participants worked through them in groups. There were also a lot of reading materials distributed on domestic violence. Judge O'Neil stated that he would share with the Committee some educational opportunities, like working through the factual situations to further understand what the victims go through. Judge O'Neil stated that he would like to approach Chief Justice Jones and ask that there be mandatory DV training for judges as they require in the Dependency areas.

#### **4. Report from DV Automation Trainer (Patricia Wuensche)**

Patricia Wuensche introduced herself and stated that she has been with the AOC for about a month and half and came from Phoenix Municipal; prior to moving to Phoenix, Pat was a magistrate in Michigan. Pat stated that she has been visiting various courts in the county of Maricopa. Pat's role is to provide training where training is needed and to increase the data accuracy of the orders that are entered so that they will be accepted in the National Center for the Investigation of Crimes (NCIC) for state and nationwide queries by law enforcement. In Patricia's visits to the courts it was discovered that there have been more data transmission errors between databases versus data entry errors from the clerks. Patricia will begin statewide training at the end of June or early July.

Judge O'Neil wanted Pat to elaborate more on the data entry issues that have been problems; Patricia said that the data does not seem to be picked up by CPOR properly from the databases at the justice level courts and the non-AZTEC courts. The data entry by the clerks is fine; but the CPOR system is missing entire fields (for instance, protective order codes for several orders or the parties do not appear for several orders). Pat said that she has alerted the DataWarehouse Manager of these error issues. Pat does not know the reason for these problems occurring. She is not sure if it is transmission on the lower courts side or the AOC/CPOR side not receiving the transmission properly. These issues are currently being investigated for a resolution and correction.

Konnie Young stated that Pat Wuensche will also be participating in the management of the DV web discussion site. The plan for the site is for judges to communicate about protective order matters. Also available will be a FAQ's sheet for frequent issues or questions regarding protective orders. Pat indicated that the DV discussion website is also available for clerks, as well as judges.

**ACTION: Judge O'Neil suggested that the DV web discussion site information be provided at the Judicial Conference.**

#### **5. Air Force Policy on the Implementation of the Lautenberg Amendment**

Judge O'Neil stated that he received some information from an Air Force reservist by the name of Gerald Williams, who is the staff attorney for the Commission on Judicial Conduct. The information that was submitted was an update on the Air Force policy on the implementation of the Lautenberg Amendment. This was sent to Judge O'Neil for informational purposes only; discussion was not necessary at this time. Konnie distributed a couple of copies of this information to the members and stated that a copy could be provided to anyone who requests one.

#### **6. Violence Against Women Act (Donna Irwin)**

Donna Irwin provided a PowerPoint presentation on the Self Petition Process for Immigrants Who Are Victims of Domestic Violence.

One of the Committee members asked Donna Irwin what specifically was being done to arouse public awareness; Donna responded that they are educating professionals to raise awareness of individuals who may be eligible for this service. The Governor's Office would like to encompass the entire state.

**7. Order of Protection Form Proposal (Bob James, Judge Elizabeth Finn, & Judge Anagnost)**

Bob James addressed the following three types of forms: a) Order of Protection, b) Injunction Against Harassment and c) Injunction Against Workplace Harassment in draft form.

**Motion: Reaffirm the Committee's past position that the Protective Order modifications be made**

**Vote: In favor-Unanimous (verbal vote)**

Judge O'Neil will be appointing a small group to approach the aspect of how to bring about the implementation of the forms themselves.

**8. Workgroup Reports**

DV Benchbook Workgroup (Evelyn Buckner, Chair):

Evelyn Buckner gave a brief update and wrap-up of the DV Benchbook following the approval at the last CIDVC meeting. The DV and Criminal benchbooks were presented to the Committee on Superior Court on February 13, 2004 and the Limited Jurisdiction courts on February 25, 2004. Both of these benchbooks were made available on CD-ROM to judges, courts and CIDVC members. Konnie Young also presented and provided copies to the Conciliation Court Roundtable on April 2, 2004 and at the Judicial Staff Training in Tucson on April 7, 2004. The overwhelming response has been very positive. Evelyn recognized the expertise and hard work of the DV Benchbook Workgroup who signed up to complete minor work and substantial changes in order to eliminate duplications between it and the Criminal Benchbook and to strengthen it by ensuring that it was very concise and beneficial to judges who sit on the bench and make difficult decisions about the lives of victims on a daily basis. In addition to the recognition of the workgroup, she also acknowledged the AOC Staff who worked diligently on the project, as well.

DV Criminal Benchbook Workgroup (Judge Mark Moran, Chair):

Judge Moran stated that the DV Criminal Benchbook needed to be updated due to two legislative changes that have occurred. The first change is due to SB 1222, under the chapter for victims' rights which requires the bench to read a script for victims at the beginning of a criminal docket. The second change is due to HB 2208 which eliminated 13-3601(M) as a Diversion option at time of sentencing for the court. Judges will need to be warned that this option is no longer available after a specific date, but for crimes committed prior to that date, it will still be an option at time of sentencing for the judge. The workgroup held a telephonic meeting, and Konnie Young has distributed a draft of the new language for Chapter 12 to the workgroup. It will be reviewed and presented to the Committee so that it can go into the benchbook. Judge Moran would like to educate the judges by presenting them with the material at the Judicial Conference in June.

DV Forms Workgroup (Bob James, Chair):

By affirmation from the Committee the Forms Workgroup will review the three protective order forms and make sure to include what is needed in the forms. With the Chair's consent, Captain Larry D. Farnsworth and Patricia Wuensche will be added to the Forms Workgroup. Bob stated that the Forms Workgroup also needed to review a number of documents related to the domestic violence process through the courts in Arizona to see if there are any changes that are necessary and said that if any of the members wanted to assist in this task, they would be welcomed.

DV Education Workgroup (Judge Mark Moran, Chair):

Judge Moran stated that there has not been any training done by the Education Workgroup with the new Petition and Guide Sheet forms since the last part of 2003. He said that he needs to get them up to speed and get an agenda together. He would like to have the legislative updates at the judicial conference and establish a website for the frequently asked questions for orders of protection. Judge Moran said that there is an educational opportunity for a training conference called, "Ending Domestic Violence in Arizona." Martha Fraser Harmon is Chair of the Planning Committee for this conference which is sponsored by the Men's Anti-Violence Network (MAN). This conference will be held on August 31, 2004 at the Westin Kierland Resort in Scottsdale. The fee for this conference is \$35.00. COJET, Bar, and post credits will be available. Sarah M. Buel, J.D., a Texas prosecutor, will be a national speaker. There will be break-out groups which will focus on law enforcement concerns, prosecution and judicial issues.

For the record, Martha stated that the conference will be co-hosted by MAN and the Governor's Office. She stated that Konnie Young is on the Steering Committee as well as Judge Moran. There will be approximately five national speakers, and the Steering Committee members will determine the break-out sessions.

Konnie Young stated that she is managing the DV website along with the assistance of Patricia Wuensche. Konnie encouraged the members to be on at least one or more workgroups which is the bulk of the work of the Committee.

Judge Moran would like to have a regular spot on the Judicial Conference agenda on domestic violence issues. Bob James would also like periodic trainings and conferences available for the judicial officers of the state. He would like to develop training through the Committee or the branch for frontline staff via conference or some COJET class whether is through satellite or in person. Judge Elizabeth Finn approached COJET managers reminding them that it is mandatory to offer DV training two times a year for judges or staff or both. She also suggested publishing quarterly newsletters or use of the website for the various domestic violence issues that are requested. She also discussed the inconsistencies in the training not offered or controlled by COJET standardization. As a goal, Judge O'Neil would like CIDVC to focus on education and training.

**9. Legislative Reports (David Benton, Legislative Officer)**

David Benton, Legislative Officer, and the Committee discussed the following proposed bills:

## BILLS STILL MOVING THROUGH THE PROCESS:

### HB2348-Domestic Relations; Child Custody (Sponsor: Sen. Bee, et al.)

This proposed bill restricts judicial discretion in child custody and parenting time decisions when domestic violence is alleged. Additional training is required on domestic violence and substance abuse for any entity that conducts an investigation or prepares a report that concerns a custodial agreement. *This bill is waiting Senate 3<sup>rd</sup> Read.*

### HB2317-Landlord Tenant; Domestic Violence (Sponsor: Rep. McClure)

This proposed bill prohibits rental agreements from including provisions that limit the tenant's right to summon police in response to domestic violence, and a tenant may terminate a rental contract when there is an incident of domestic violence. *This bill has already gone to the Governor.*

### HB2304-Sexual Assault of a Spouse (Sponsor: Rep. Jayne, et al)

This bill eliminates distinction between marital and non-marital sexual assault. *This bill is waiting Senate Rules.*

### SB1156-Retroactive Child Support (Sponsor: Sen. Brotherton, et al)

This bill allows the court to order up to three years of retroactive child support if the parties lived apart before filing for divorce, legal separation, maintenance or child support. *This bill was transmitted to the Governor on 4-29-04.*

## BILLS NO LONGER MOVING:

### SB 1196-Protection Orders; Domestic Violence; Reports (Sponsor: Sen. Anderson)

This proposed bill proposes the publishing of a report by the Supreme Court each year that entails demographic statistics on: a) the number of orders of protection issued statewide from each court, b) the number of orders denied, c) the number of orders violated, d) details of the punishment for violations, e) the number of orders that are abandoned, and f) the number of persons killed while the order is in effect. The bill proposes that if the Supreme Court fails to publish this report, the Court will not receive any monies from the criminal case processing and enforcement improvement fund. *This bill failed in Senate judiciary.*

### HB2001-Judges Pro Tem; Domestic Relations (Sponsor: Rep. Yarborough)

Parties in a domestic relations case may elect that a judge *pro tem* be assigned. The parties shall agree and pay the *pro tem*'s salary upon approval of the court. *This bill will utilize Rule 53 of the Rules of Procedure Special Master Rule.*

## BILLS FILED INTO LAW:

### SB1222-Victim's Rights; Statement by Judge (Sponsor: Sen. Brotherton, et al)

This bill requires the superior court judge, at the commencement of the regular criminal docket, to read a short statement advising crime victims of their rights under Arizona law. *Laws 2004, Ch. 131*

#### HB 2208-Domestic Violence; Diversion (Sponsor: Rep. Tully, et al)

This bill strikes language that authorizes the court to divert a defendant found guilty of a domestic violence offense. *Laws 2004, Ch. 52*

Bill Hart of the Coalition Against Domestic Violence stated that HB2317 (that specifies the conditions under which a tenant may terminate a rental contract) is no longer part of the bill that was submitted to the Governor. The only provision would be if the victim in domestic abuse situation calls 911, and the police arrive, the victim would be afforded protection from certain crime and drug free addendums which become a “one strike and you’re out” policy in many cases.

The provision in HB2348 would prohibit face-to-face meetings between parties if domestic violence is in the history. Per David Benton, this portion has been modified and cut out. The other provisions were no custody or unsupervised parenting time for registered sex offenders and the prohibition of custody or unsupervised parenting time for someone who is convicted of first degree murder of the other parent common children.

The Committee would like to have a DV Legislative Workgroup which would meet with the legislature and provide feedback to CIDVC. Judge O’Neil stated that a workgroup or subcommittee that looks at the impact of proposed legislation on the courts and various aspects of the law enforcement as it relates to DV is well within the province of CIDVC. Due to the interest in having a legislative subcommittee from the various members, Judge O’Neil approved this. He stated if there is interest in being on this subcommittee to send a written directive to Konnie Young. Konnie asked for clarification if this was a subcommittee or a workgroup, and Judge O’Neil stated that it was a workgroup.

#### **10. Discussion on Next Year’s Committee Goals**

Judge O’Neil asked the members what they thought should be the Committee goals for next year. Following are the topics that were proposed as goals for next year:

- Education and Training
- Treatment aspect. Follow up on treatment to see if it is working. Family conferencing. Development of treatment and rehabilitative resources
- Accountability, Best Practices, working with COJET, monitoring courts
- Collaboration
- Data Collection

Allie Bones stated that she would like to be on the next CIDVC agenda for the August meeting to discuss the state plan.

Konnie reminded the members that if they wanted to be on any of the workgroups, including the new workgroup (the Legislative Workgroup), to let her know. The Education Workgroup will be meeting within the next couple of weeks. The DV Criminal Benchbook is out on the web.

As clarification, Judge O'Neil iterated to the members that the vote that was done earlier for the proposed Order of Protection was not a new vote; rather, it was reaffirmation of an action item on which the Committee had already voted. This gives Judge O'Neil direction as Chair but was not a formal action.

**11. Call to the Public:**

There were no comments from the public.

**12. Next Meeting:**

Konnies announced that the next meeting is on August 18, 2004, 10:00 AM – 2:00 PM, State Courts Building, Conference Room 119 A&B.

**13. Adjournment:**

Judge O'Neil adjourned the meeting at 12:48 pm.